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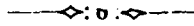
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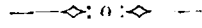
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PERSONNEL OF THE COMMITTEE.



- R. J. DUFF Esqr.,
New India Insurance Co. Ltd. } *Chairman.*
- H. E. JONES Esqr.,
The Oriental Government Security
Life Assurance Co. Ltd.
- PANDIT K. SANTANAM,
The Lakshmi Insurance Co. Ltd.
- K. S. R. IYER, Esqr.,
The Jupiter General Insurance Co. Ltd.
- J. P. DUTIA Esqr.,
The National Insurance Co., Ltd.,
- J. C. SETALVAD Esqr.,
The Vulcan Insurance Co. Ltd.,
K. C. DESAI Esqr.,
The Industrial & Prudential Assu-
rance Co. Ltd. } *Honorary
Secretaries.*

SUBMISSION REPORT.

The Indian Insurance Legislation Committee have the honour to submit their report to which they have appended a draft Bill embodying their recommendations for the repeal of the Indian Life Insurance Companies Act VI of 1912 and its re-enactment making it applicable to all classes of Insurance business with very extensive modifications.

PART I.

1. The Committee were appointed at a Meeting of Indian insurance representatives held in Bombay on the 31st day of May 1936 presided over by Sir Naoroji Saklatwala, Kt., C.I.E., with a view to inquire and report on the necessity and expediency of introducing the requisite legislation with a view to give adequate protection to Indian Policy holders and to Indian Insurance companies incorporated in British India and to draft a suitable Insurance Bill embodying their recommendations on the subject. The names of Insurance companies whose representatives attended the said meeting or who subsequently joined in the scheme are mentioned hereunder :

- | | |
|---|---------------------------------|
| (1) The Oriental Life Insurance Company | Bombay |
| (2) The New India Insurance Co. | " |
| (3) The Vulcan Insurance Co. | " |
| (4) The Bombay Mutual Life Assurance Society | " |
| (5) The Jupiter General Insurance Co. | " |
| (6) The National Insurance Co. | .. Calcutta |
| (7) The Hindusthan Co-operative Insurance Society | " |
| (8) The Industrial & Prudential Assurance Co. | .. Bombay |
| (9) The Lakshmi Insurance Co. | .. Lahore |
| (10) The Bharat Insurance Co. | " |
| (11) The Indian Mercantile Insurance Co. | .. Bombay |
| (12) The Western India Life Insurance Co. | .. Satara |
| (13) The Hindu Mutual Life Assurance Co. | .. Calcutta |
| (14) The Universal Fire & General Insurance Co. | .. Bombay |
| (15) The Indian Globe Insurance Co. | " |
| (16) The Andhra Insurance Co. Ltd. | .. Machalipatam (Madras Presy.) |
| (17) The Zenith Life Assurance Co. Ltd. | .. Bombay |
| (18) The Asian Assurance Co. Ltd. | " |
| (19) The East & West Insurance Co. | " |
| (20) The Bombay Life Assurance Co. Ltd. | " |

2. The Committee held forty meetings at which they considered the different aspects of Insurance legislation and came to certain conclusions thereon which are embodied in the draft bill which will be found as part III of this Report.

3. It became clear to the Committee that it would be easy for them to express their conclusions on the main points as there was very little divergence of opinion on the subject ; but that the real difficulties would be found in embodying them in the draft bill.

4. In the circumstances, the Committee thought proper to secure the services of Mr. Mangaldas B. Mehta, B.A., LL.B., Solicitor High Court, Bombay and Notary Public, to assist them in embodying their conclusions in the form of a Bill.

5. The draft Bill (printed as part III of this report) contains the Committee's recommendations for the repeal of the Indian Life Insurance Act VI of 1912 and its re-enactment with those amendments which the Committee think necessary.

6. The Committee have thought it convenient to set out in Part II of this Report their comments on the salient features of the draft Bill with particular reference to the modifications and additions in the Law which are embodied therein and to the reasons which have actuated the Committee in suggesting those modifications.

7. The Committee find it necessary, however, to deal separately with certain questions which have been discussed before them but fall outside the purview of Part II of this Report.

8. Prior to the year 1912, there was no statute in force in British India regulating business of Insurance of any kind, the reason being that most of the Insurance business transacted in British India was in the hands of British and Foreign companies. At that time there were about fourteen companies incorporated in British India a majority of which were doing only the business of Life Insurance. As business of Life insurance began to grow, it was felt necessary that legislation of some sort should exist for the protection of Indian policy holders. Accordingly the then Government of India enacted an Act in the year 1912 being the Indian Life Assurance Companies' Act VI of 1912.

9. The ideas of nations in relation to trade and commerce as well as important national services were completely revolutionised after the Great War of 1914—18. India was no exception to this. It wanted to develop, amongst other things, all classes of Insurance business, and five composite companies came into existence soon after the War. Since then a few more composite companies have been formed but the number of such companies at present is not more than fifteen.

10. During the period of the Great War, there was only an addition of four Indian Insurance companies, and in the post war period from the year 1918 to 1924 there was a further addition of five Indian Life Assurance Companies. But from the year 1926 onwards there has been a steady increase of new Life Insurance companies with the result that whereas at the end of 1926 there were 51 Indian Life Assurance Companies with a combined premium income of nearly Rs. 253 lakhs, there were as many as 194 companies in 1934, of which 145 were doing life insurance business with a combined premium income of over Rs. 600 lakhs. No progress of any substantial character was, however, made in the case of other classes of Insurance.

11. The total premium income of twenty-two well known British Insurance Companies for the year 1935 from Fire, Marine and Accident amounted to nearly Rs. 140 crores. The total premium income of American companies from Fire, Marine, Motor, and miscellaneous business amounted to Rs. 375 crores. The premium income derived in India from Fire, Marine and miscellaneous insurance business in the year 1933 according to the Indian Insurance Year Book published in the year 1935 under the authority of the Government was Rs. 250 lakhs. This small amount of business is shared by as many as 150 companies, out of which not more than fifteen are Indian Companies.

Regarding Life Insurance, the income of British Life Insurance Companies for the year 1935 was over Rs. 94 crores in the ordinary branch and Rs. 63 crores in the industrial branch. The total funds of British Insurance Companies at the end of 1935 stood at the colossal figure of Rs. 1472 crores. Similarly, the income from Life Insurance of the American Insurance Companies for the year 1935 came to Rs. 800 crores, and the funds stood at Rs. 7068 crores. In India, the total amount of life Insurance in force at the end of 1933 amounted to over Rs. 193 crores; premium income amounted to Rs. 970 lakhs.

There are 341 companies operating in India, both Indian and foreign, and the Committee are of the opinion that there is no scope for such a large number of companies in India having regard to the comparatively very small volume of business that is available at the present time.

12. In the year 1925 it was felt by both the public and the commercial community that comprehensive legislative measures should be introduced and enacted into Law with a view to control the operations of Companies, Indian as well as Foreign, carrying on insurance business of one or more classes in British India and to protect the interests of the Indian policy-holders.

13. With a view to satisfy strong public opinion in the matter, Sir Charles Innes, the then Commerce Member of the Government of India, introduced a Bill in the Legislative Assembly on 21st May 1926. The said Bill purported to legislate for all classes of insurance business and to insist upon the Companies, carrying on the business of Insurance in British India, depositing for each class of such business certain amounts with the Governor General in Council. The said Bill also purported to insist upon the Insurance Companies submitting to the Government of India detailed information as to the working and nature of Insurance business carried on by them in British India. The said Bill was withdrawn by the Government of India. Some amendments however were introduced in the insurance Act by the Government of India in 1928. But they did not satisfy the public demand.

14. In the same year Mr. Jammadas M. Mehta, then a member of the Legislative Assembly, also made an unsuccessful effort to

introduce a private Bill which was modelled on the lines of the Insurance Act then in force in Canada. The said bill, however, was not introduced in the Assembly and was ultimately dropped.

15. Since the year 1925 strong representations have been, from time to time made to the Government of India by Life and Fire Insurance Associations and Chambers of Commerce for enacting a comprehensive Insurance bill with a view to give adequate protection to Indian Insurance Companies and to Indian Life Policy holders, to check the growth of mushroom Insurance companies and to prevent unhealthy competition of Foreign companies carrying on business of Insurance in British India.

16. As a result of such representations the Government of India in the year 1935 appointed Mr. Sushil Sen, a Solicitor of Calcutta, to inquire into the conditions of Insurance business carried on in British India by Indian as well as Foreign Insurance Companies in all its aspects and to make a report thereon suggesting the lines on which amendments to the existing insurance Law in India should be made. We regret to state we had not the benefit of this Report, as the same had not been made available to the public.

17. It will be pertinent to point out that the existing Law on insurance was largely based on English Law. The conditions, however, prevailing in Great Britain were entirely different from those prevailing in India. The business of Insurance in British India was then and is even now in its infancy. Besides, the majority of the people of India are illiterate and a still larger majority ignorant of the English language in which the Government Blue Books are published, and not in a position to protect themselves. In India, therefore, the Insurance Law in the interests of the Policy holders, should have provisions more stringent than those embodied in English Law. It is also necessary to establish in India a separate Government department of Insurance. The Committee have accordingly provided in the draft Bill for such a department. The Committee do not entirely endorse the opinion held in certain quarters that the best protection of a policy holder will be found in the publicity which will be given to the insuring Company's position as a result of the obligation being imposed upon it to make the statutory returns. The Committee feel that a measure of Government control is much more necessary and is essential in a country like India than in Canada, U.S.A., Japan and other countries. Government supervision in such countries has not interfered with the development and growth of indigenous Insurance business and there is no likelihood in India of the business of sound and stable companies being interfered with by such a supervision.

18. In the course of discussions at the meetings of the Committee, the Committee had before them Insurance Legislative enactments existing in almost all parts of the World and they have freely referred to these enactments. Their recommendations, however,

are largely based on experience gathered from the working of Insurance Companies in India and the existing exigencies of the case.

19. The Committee are convinced that a measure of Government control is necessary over all Companies, whether corporate or incorporate, carrying on the business of Insurance in British India and they have, therefore, recommended a system of licensing which makes it obligatory for every Insurance Company, Indian as well as Foreign, to obtain a license from Government in order to enable it to commence and carry on insurance business in India. The Committee also feel that power should be reserved to the Governor General in Council to refuse the license to any company even though such a Company is prepared to abide by the provisions of this Act. Such a power will be useful in preventing a company of a country which does not permit an Indian Company to do Insurance business in that country from obtaining the license. Such a power may also be exercised against a Company which carries on business in a manner detrimental to the interests of the insuring public as well as other Insurance companies. The Committee are of the opinion that it would not be possible to exercise proper control over companies unless a proper licensing system is introduced.

20. The Committee are also of the opinion that the proposed legislation should make provision for insisting upon deposits being taken from every Company, foreign as well as Indian, in respect of each class of business carried on by it, as at present practically only Indian Life Insurance Companies are required to make a deposit to the maximum of Rs. 2 Lacs, the minimum deposit being only Rs. 25,000. The Committee have, therefore, provided in the draft Bill that substantial deposits should be taken before the license is issued from every company, foreign as well as Indian, carrying on business of any class of Insurance. This provision will in their opinion, prevent mushroom non-Indian as well as Indian Companies from carrying on the business of insurance in India in a manner detrimental to the best interests of India.

21. The Committee have provided in the draft Bill that a non-Indian Company should deposit a larger sum than is required of an Indian Company in respect of each class of Insurance business other than Life. In the opinion of the Committee this differentiation and distinction is necessary in view of the fact that Indian Companies have got their capital in India. It might also give a little protection to indigenous Indian Insurance Companies from the inroads of some foreign Companies. Provision on similar lines is existing in several countries including British Colonies and Indian Companies as well as British Companies carrying on or intending to carry on business of insurance in such countries are required to pay higher deposits in such countries. The Committee are not unaware of the view expressed that such differentiation may invite retaliatory steps in foreign countries against Indian companies. The Committee have carefully examined this position and feel that there is no likelihood of any increase in deposits required from Indian Companies in foreign countries.

22. The Committee are also strongly of the opinion that so far as non-Indian Insurance companies are concerned they should be required to keep in British India sufficient assets by way of reserve to enable them to meet all outstanding risks in respect of each class of insurance business carried on by them in India and a provision in that behalf has been made in the draft bill. Indian companies doing Fire insurance business in the U.S.A. have to maintain such assets. These assets will safeguard the interests of Indian policy holders in the case of War or in the case of a foreign Company being taken into liquidation in the country of its origin for reasons not necessarily connected with the business of underwriting.

23. Provision has also been made in the draft Bill for the registration of Agents and Insurance brokers and prevention of rebating. Rebating is on the increase and unless it is immediately curbed it will undermine the financial position of insurance companies. The registration of brokers is necessary for the purpose.

24. The Committee have carefully considered the question of giving due representation to Policyholders in the management of a proprietary life insurance Company. In the case of Companies carrying on the business of life insurance only, provision has been made in the constitution of most of them whereby policy-holders are entitled to elect every year one or more Directors from amongst themselves. In the case of Companies carrying on the business of life insurance along with other classes of insurance business the question presents insurmountable difficulties. Life insurance is only one of their several other activities such as, Fire, Marine, Motor Vehicles, and Accident insurance. It hardly seems fair that policyholders of life department should alone be entitled to elect some directors from amongst themselves and indirectly to have a voice in the management of all the other departments of the Company. Such an arrangement cannot result in the harmonious working of the Company and is likely to be prejudicial to other departments. The Committee have therefore come to the conclusion that it will neither be advisable nor practicable to make provision by statute for giving representation to the life policyholders in the case of a Composite insurance Company.

It will also be invidious to make a distinction between a Company carrying on the business of life insurance only and a composite insurance company by providing by statute for such a representation. If such a distinction is made in the proposed statute it might result in composite insurance companies suffering serious handicap in their life business. Apart from this the Draft Bill provides adequate safeguards for the protection of life policyholders such as supervision and control of the commissioner of insurance, provision for investment of life funds, maintenance of separate life insurance reserves etc. The committee have therefore not provided for any representation being given to the life policyholders in the management of an Insurance Company whether Composite or otherwise.

25. In the course of the deliberations of the Committee it was suggested that the holders of policies of life insurance should be treated as members of the company whether composite or otherwise and vested with all the rights of ordinary shareholders. The Committee after carefully considering the matter have come to the conclusion that a provision on the lines of the above suggestion if incorporated in the draft Bill would entail serious consequences to the Company and its shareholders. In course of time the life policyholder will acquire a predominant voting strength with the result that on any question affecting the rights of the shareholders they will be able to assert themselves. The original shareholders who were mainly instrumental in the formation of the Company and who for a number of years risked their capital, would have very little voice in the management of its affairs while in some cases they will have the burden of and uncalled liability on the shares held by them. Moreover the agents, sub-agents and brokers employed by the Company will be placed in a position of exerting considerable influence over the holders of policies secured by them and will very likely utilise such an influence against the best interests of the Company thereby hindering stable progress. In the case of composite offices the question presents difficulties similar to those mentioned in the preceding paragraph. In the circumstances the Committee are firmly of opinion that the suggestion besides being unpracticable is harmful to the steady progress of Indian Insurance Companies.

26. The Committee are of the opinion that business on dividing Society lines is prejudicial and harmful to the public as well as to the growth of healthy insurance in India. They, therefore, recommend that business on these lines should be made illegal.

27. The question of Provident Societies was carefully considered by the Committee and they were of the opinion that the Provident Societies also should be brought within the purview of this Act. The present Act relating to Provident Societies should be repealed. They should also be made to have licenses and should be made to deposit suitable amounts and have periodical valuation. The Committee have not included these provisions in the draft Bill. But if the principle is accepted by the Government, a separate Chapter on "Provident Societies" could be easily added to the Bill.

28. The Committee's attention was drawn by some experienced medical officers of Life Insurance Companies to the fact that quite a number of medical graduates were not able to do full justice to the work of medical examination for life insurance companies. The Committee felt that though the matter was very important, it could not be included in the present Bill. The Committee, however, draw the attention of various Universities and the Government to the necessity of including the subject of Medical Life Assurance in the Curricula of Medical Colleges and Medical Schools.

29. The Committee would like to make it quite clear that all the clauses included in the draft Bill are interdependent and go together. If any serious alterations are suggested in the requirements of the draft bill under one heading, it will be necessary to make alterations in other parts of the Bill also. The Committee should not be understood to have separately agreed to any suggestion in any part of the Bill.

30. Before this part is concluded, there is one very important and vital question to which a reference must be made. This Committee is strongly of the opinion that Indian Insurance Companies require effective protection, and provisions should be introduced in the proposed insurance Bill to ensure such protection. The said provisions have not been put in the draft Bill so far but a Chapter under the heading of protection requires to be added.

The problem that faces Indian Insurance Companies is one of uneconomic competition. This is particularly intensified in the general insurance business as a result of which the existing general Indian Insurance Companies are much handicapped. Their total number is not more than fifteen. Against this small number of indigenous companies there are as many as 70 British and 77 Non-British foreign insurance companies in India. It is pertinent to note here that general insurance business is being conducted on what is called Tariff lines. Tariff Associations were formed throughout India by foreign companies to suit their own needs. Rules were framed and the right of agency representations, even to defunct companies, was made possible under these Rules. Similarly companies which have either been absorbed or acquired by larger companies can have agency representations in India. Indian Offices being new comers, had certain disabilities in this matter. These Tariff Rules prohibit opening of Branch Offices in a Presidency. Since Indian Insurance Companies came into existence, insurance rates have been systematically reduced. The result has been that Indian Insurance Companies have to work in their own country under great difficulties due to the severe and unhealthy competition from foreign companies. The Committee feel that the Government department of Insurance must have some control over these Associations. The Committee do not recommend that usually there should be any interference in the affairs of any such Associations but the Indian minority must be protected by the Government under certain conditions.

31. The formation of a number of general insurance companies in 1919, i.e., just after the War, backed by influential Boards of Directors and with substantial capital, was not looked upon with much favour by large British and Colonial companies who had a monopoly of general insurance business in India during the War. This feeling was reflected in the attitude taken up by Exchange Banks which were not willing to grant normal working facilities by accepting Indian Insurance companies' policies. This fact was also brought out before the Banking Inquiry Committee.

32. After the War, other foreign companies began to enter the Indian field. A group of Javanese companies came soon after the War. American companies came thereafter. A group of French companies also entered India and thereafter German and Italian companies also followed them into the Indian market. All these later arrivals came into India without any kind of local influence. Their only chance was in offering enhanced commissions. It must be mentioned that so far as some of the well established foreign companies were concerned, they had a tied-up business which these new foreign companies could not disturb. They, therefore, attacked the connections which Indian Insurance Companies were able to form. The natural consequence of this invasion was that valuable brokers and agents of Indian Companies, controlling substantial portfolios of premium, were offered by these companies excessive terms. These companies directly as well as through the newly engaged brokers approached the clients of Indian companies with offers of very high rebates, which compelled the Indian companies to offer competitive terms to brokers to retain their business. This naturally resulted in higher costs of acquisition. The Committee are satisfied that the high acquisition costs which prevail in India today leave in many cases no margin of profit to companies doing Fire and general business. This view is also shared by the Tariff Associations in India whose membership consists of Tariff companies operating in the Bombay territory which include almost all British, Indian and Continental companies.

The Javanese companies after a few years' working retired quietly. The French companies also after a couple of years' working withdrew from India. One leading German Insurance company has similarly retired quite recently. Although these companies have gone out of business in India, there can be no doubt that they have done infinite harm to the insurance business in India in general, and to the Indian Insurance Companies in particular.

33. The Indian Companies can only grow and expand if the Government can give effective protection to them. In the first place non-Indian companies should be prevented from coming to India for quite a number of years. The business available in India is necessarily small and limited. The Committee, therefore, feel that for twenty years at least no new non-Indian Company should be given the license to do Insurance business in India. This provision should be made applicable to Companies doing life as well as general business. There are already a large number of Indian Life companies in existence, sufficient for the needs of Indians. The new requirements under this Bill will necessarily control the number of new Indian companies in near future. The smaller Indian companies which will have to find the amount of increased deposits, should also be allowed to have time to consolidate and progress. This can only be done by withholding the issue of licenses to any new non-Indian companies for a period of at least twenty years.

34. In Japan and Italy it is very difficult, if not impossible, for Indian companies to get admission. The following extracts

from a letter received from Japan with regard to the prospects of an Indian Company entering afresh the Japanese market will show that so far as Japan is concerned it has closed its doors against foreign insurance companies :—

“Coming to the question of insurance legislation in Japan, governing foreign insurance companies, we would remark that the policy of the Government is definitely opposed to the granting of further licenses to insurance companies desiring to open business in the Japanese Empire, and their efforts are being directed towards a reduction in the number of insurance companies, rather than an increase. No new licenses have been issued in recent years, and smaller companies are encouraged and advised to amalgamate with one another or with larger companies. This being the domestic policy of the Government, it is not surprising that no new licenses have been issued during recent years to foreign companies desiring to commence underwriting business in Japan.”

Italy, although it has not officially committed itself, has not given admission to one of the largest Indian Insurance Companies. And yet Italian insurance companies are doing business in India without any let or hindrance.

There are other discriminations exercised by Trade Organisations abroad as the following extracts from the speech of the Chairman of a leading Indian Insurance Company will show :—

“Before closing, I may mention a matter which continues to cause us some concern. This is the discrimination which favours certain classes of Companies to our detriment in the contracts of various Trade Associations in Great Britain. Such contracts contain a provision somewhat on the following lines :—

“Insurance to be effected with approved British and/or Continental and/or American Underwriters or Companies domiciled in and paying losses in England.”

“With many of these Trade Associations no difficulty arises, but some of the contracts still operate against us, and divert a certain amount of business which would otherwise come to us. This is very unsatisfactory, and we shall continue our efforts to overcome the difficulty.”

35. The Committee believe that as regards Indian General Insurance Companies, tangible assistance should be given to them. The conditions in India are entirely different from those in other parts of the world. Effective protection should, therefore, be given to Indian General Companies. This can take many forms, and we suggest the following :—

(i) All insurance controlled by the Government should be placed with Indian Insurance companies.

(ii) The Government should require all Municipalities, Local Boards, Port Trusts, Improvement Trusts and other quasi-Government bodies and institutions receiving Government aid to insure all their properties with Indian Insurance Companies.

(iii) All industries which have received protection from Government in the shape of direct bounty or by Tariff should be required to place their insurance business with Indian Insurance Companies. This suggestion is in harmony with the following view expressed by the Tariff Board in their report in 1932. "Unless the policy of protection results in the development not merely of the industries to which protection is granted, but also of subsidiary industries, it will have failed to achieve its full purpose."

(iv) All foreign insurance companies doing business in India should be asked to effect reinsurances with Indian insurance companies.

(v) An additional stamp duty on policies issued by non-Indian Companies should be imposed.

The Committee also suggest direct protection in the shape of compulsory reinsurance with Indian Companies of a certain percentage of all policies issued by non-Indian companies in India. Such a system of compulsory reinsurances is prevalent in some countries including the Irish Free State.

The Committee are emphatically of the opinion that for the very existence of the Indian General Insurance Companies protection on the lines suggested here, is absolutely necessary. Unless definite provision is made for such protection, in the proposed insurance Bill, there is no likelihood of the development of General Insurance business on National lines.

36. Before concluding this report, the Committee desire to place on record their appreciation of the very valuable services rendered by Mr. K. C. Desai, the Joint Honorary Secretary. It would have been almost impossible for the Committee to complete its work without his untiring assistance.

(Signed) R. J. DUFF (*Chairman*).

H. E. JONES.

K. SANTANAM.

K. S. R. IYER.

JIVANDAS P. DUTIA

J. C. SETALVAD

K. C. DESAI.

} *Hon. Secretaries.*

Bombay, 23rd October 1936.

PART II.

The Committee proceed to comment on certain matters arising in connection with the draft Bill with particular reference to the changes thereby to be effected in the existing legislation on the subject.

(1) Chapter I defines certain expressions and words which frequently occur in the Bill. Under the existing legislation on the subject there are very few definitions. In view of the increased scope and application of the Bill the Committee deemed it necessary to give precise definitions of certain expressions which are commonly used by persons engaged in the business of Insurance. The Committee have found it necessary to define the words "Indian Company" in sub-section (o) of Section 2 of the Bill as distinguished from a "Non-Indian Company" in view of distinct provisions appearing in the Bill affecting Indian and non-Indian Companies.

(2) The Committee have not reserved in the bill power to the Governor General in Council to exempt any Company from all or any of the provisions of the Act. As the provisions of the Bill are far reaching in their consequences, there is every likelihood of a majority of companies trying to secure an extirpation from the Act on frivolous grounds. The Committee therefore felt that if such a power was reserved to the Governor General in Council, the purpose of the bill would be frustrated if exemptions were granted on a large scale. Provident Insurance Societies are not brought within the purview of the Act. The Committee however feel that for the successful working of the act, the existing Provident Insurance Societies Act 1912 requires to be drastically mended.

(3) Chapter II provides for the grant of the licenses. Licensing system is intended to regulate the admission of Companies carrying on or formed to carry on the business of Insurance and to check the growth of mushroom companies. The non-Indian Companies have to renew their licenses every year. The Governor General in Council is vested with the right of refusing to grant or renew the license to any Company with a view to prevent Companies from resorting to unfair competition *inter se* and to protect indigenous Insurance Companies in India. In view of the provisions relating to deposits, the maintainence of assets in India and other matters appearing in the bill the licensing system was found unavoidable. Adequate fee for the grant and renewal of licenses should ensure sufficient income to the new department of insurance. Lloyd's Agents working in India are also required to obtain licenses. This Chapter also provides for certificates to be obtained by Insurance brokers or agents. This will result in checking the abuse of rebating which is prevalent now. There is also a clause restricting companies from paying commissions to any person or persons other than certified brokers.

(4) Chapter III deals with Deposits. The existing Act makes it obligatory for a Life Insurance Company to deposit upto a maximum sum of Rupees Two Lacs. In view however

of the steady progress of Insurance business of all classes in India, the Committee have thought it fit to insist on deposits being taken from Companies doing all classes of business. Moreover non-Indian Life insurance Companies which have deposited £ 20,000/- in England are not required to deposit any amount in India, though a Company incorporated in India and having deposited the amount as required by the Act is still required to deposit £20,000/- in England. This is neither fair to Indian Companies nor to Indian Policy Holders. The Bill therefore provides for deposits from all Companies. In the present circumstances the Initial deposit of Rs. 25,000/- required under the existing Act from Life Assurance Companies is hardly adequate. The Committee have recommended in the bill to require the maximum deposit of Rs. 2,00,000/- from all Companies transacting Life Insurance business. This will have the effect of preventing mushroom companies from being started and established without adequate finances. Experience in the past has shown that some companies with weak finances were not able to meet their obligations including claims under the policies issued by them. The higher deposits required under the Act are intended to protect the interests of the public including the Policy holders. Besides the deposits the Committee have provided in the bill that a license shall not be issued unless the Company has a working capital of Rs. 50,000/-. This is necessary in view of the increased cost of procuring business. The Committee have further provided in the Bill for payment of the deposits by instalments in the case of existing Indian companies which have not paid full deposits. It is only fair to such companies that they should be given time for making enhanced deposits.

(5) Regarding other classes of insurance business, separate deposits are required for each of the following classes of insurance business, viz : (a) Workmen's Compensation, (b) Accident, (c) Motor Vehicles, (d) Fire and (e) Marine Insurance business with a proviso for a maximum deposit of Rs. 5,00,000/- for non-Indian and Rs. 2,50,000/- for Indian Companies. The existing Indian Companies are permitted to make the deposit by instalments. Differentiation in the deposits required from Indian and non-Indian Companies has been made in the bill by the Committee after careful and anxious consideration. Such a discrimination exists in some countries including British Colonies and the circumstances in India require the introduction of the system.

(6) The Committee have carefully considered the question of Lloyds' Agents and persons issuing certificates which cover insurances with Lloyds' also. The Committee feel that they should be made to deposit specified amounts with the Government. The Committee have accordingly provided that for each class of insurance business every Lloyds' Agent and person issuing certificates which cover insurances with Lloyds' should deposit Rs. 2,5000/- with the maximum of Rs. 50,000/- for all classes of insurance business.

(7) The Committee have also provided in the bill that every Indian Company intending to transact the general business should have a minimum capital of Rs. 3,00,000/- if it carries on only one class of business and of Rs. 5,00,000/- if it carries on more than one class of insurance business. To ensure the establishment of companies on sound lines this provision is deemed necessary.

(8) The Committee have in addition to deposits, deemed it necessary to provide in the bill that non Indian Companies should maintain a certain portion of their assets in India. Such Companies doing life Insurance business are required to maintain in India in Trust, assets equivalent to their liabilities to the policy holders in India. A provision has also been made in the Bill for reserving the securities deposited for a particular class of business for the liabilities of that class only.

(9) The documents to be filed with the Department of insurance are mentioned in Chapter IV. On filing these documents the company will be entitled to apply for a license. Due notice of the grant of a license as well as of the closing of business has to be given under this Chapter.

(10) Chapters V and VI deal with Balance Sheets accounts and the Annual returns to the Department. The closing of the business year has been made compulsory on 31st December. For the purposes of comparison it is found necessary that all reports and figures should be given for the same period. It is also provided in the bill that all the returns should be made to the Department within six months of the closing date. The Committee have thought it proper to require non-Indian Companies also to make their annual returns on almost the same lines as Indian Companies. For purposes of the Balance Sheet the Committee feel that the present requirements of law are quite sufficient.

(11) Chapter VII defines the Powers and duties of the Commissioner. This Chapter deals in detail with the work of the Insurance Department which is to be a new department. Powers of supervision and inspection have to be given to the Commissioner. He is to be responsible for the publication of the Blue Book which has to be published on a specified date. Publicity is a great factor in credit institutions like insurance companies. Provision has been made in 54 (b) for the suspension of the license of a Company by the Governor General in Council if it is found that it is unsafe for the public to effect insurance with it.

(12) Chapter VIII deals with "Reinsurance of insolvent Companies". Detailed provisions in this respect were overdue.

(13) Chapter IX deals with investments. The question of state interference in this matter is controversial. Investments of a company are no doubt an internal affair of the company. Insurance Companies however are credit corporations and the future of quite a number of persons depends upon the prudent investment policy

of the companies. The Committee have therefore decided to make statutory provisions for investments. Indian Companies doing business outside India have to make deposits in other Countries according to the law or usage prevailing in those countries. These sums are therefore excluded from the purview of this Chapter. Out of the remaining assets of the Company, one half is required to be invested in securities authorised by Section 20 and 20A of the Indian Trust Act. At present a very large majority of the companies are in the habit of investing the major portion of their assets in such securities. The Committee however felt that the statute should make it obligatory for a company to invest atleast fifty percent of its assets in Trust securities. In case of life insurance companies loans have to be advanced on their policies which investment is not authorised by the Indian Trust Act. Such loans on an average form about 10 per cent. of the total assets of a company. The buildings owned by a Company for its business are also not within the investments authorised by the Trust Act. Taking all these facts into consideration, the Committee felt that it would suffice if only fifty percent of the assets of a Company were compulsorily required to be invested in Trust securities. The Committee have however definitely provided that no loans shall be allowed to any director, managing agent, or officer of a company except on policies within their surrender values.

(14) Chapter X makes provisions for the winding up of companies. The Committee feel that these provisions would be found adequate for all practical purposes.

(15) Chapter XI specially deals with the business of Life Insurance. As the Bill deals with all the branches of insurance; it was found necessary to devote a separate chapter on Life insurance. The subject of Amalgamation and Transfer has been fully dealt with. Provision is made to prevent Companies from paying commission to persons other than certified brokers and that too should be determined in advance. No advances have to be paid to agents. Future estimates on life policies have been prohibited as this system tends to misguide the public. Rebates have been prohibited under penalty. There has been a great complaint against the evil of rebating and the Committee have inserted in the bill careful provisions for checking this evil. Provision has also been made for periodical valuations for which compulsory basis have been laid down. The existing law merely lays down that the basis adopted shall be declared. This bill goes a little further and lays down certain definite basis for valuation. It is further provided that for ascertaining surpluses for the purposes of distribution, no appreciation of securities which are not actually sold shall be taken credit for. This in the opinion of the Committee is a very salutary provision. The Chapter further provides for the transfer of business of companies desirous of closing their business. The Chapter also provides that life insurance accounts of a composite company shall be separately maintained and that the life assurance fund shall not be applied directly or indirectly for any other purpose.

(16) The Committee have also deemed it necessary to make a provision in Chapter XI for assignments of and nominations under life policies and the form and manner of making the same. Payments of claims have been frequently delayed for want of a legal title. The insuring public therefore are given ample facilities to nominate their successors from the beginning without creating an absolute trust for them.

(17) Chapter XII deals with classes of Insurance, other than life. It is provided that if a company does not pay a claim for a number of days after it is settled its license may be cancelled. There are provisions under this Chapter also for checking the evil of rebating. The Committee feel that these provisions will have a salutary effect on the public and the Companies as well as the brokers.

(18) Chapter XIII is devoted to penalties and procedure. Unless penalties are prescribed and enforced there is no likelihood of the requirements of the Act being duly complied with by all concerned.

(19) The last Chapter XIV deals with miscellaneous matters. Power is given to the Governor General in Council to make rules with a view to carry out the purposes of the Act. It is also provided in this Chapter that the Balance sheets and accounts prepared in accordance with the provisions of the Bill and sent to the Registrar of Companies, shall be sufficient compliance with the provisions of Section 134 of the Indian Companies Act. Doubts have arisen whether in the case of a policy of insurance issued by a Non-Indian Company the Law applicable should be the Law of the country in which such a Company is incorporated or the Law of British India. It is therefore expressly provided that any question of Law arising in connection with a policy of insurance whether issued by an Indian or a non-Indian Company, should be decided according to the Law for the time being in force in British India. By this Chapter the business known as the "dividing Society business" is made illegal. It is also provided in this chapter that the period of instituting a suit on a policy of life insurance shall be three years from the date of death. The existing provisions in the limitation Act is not happily worded. The proposed provision would be considered just and equitable.

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